



THE ATTORNEY GENERAL OF TEXAS

GERALD C. MANN

ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Coke Stevenson
Lieutenant Governor
Austin, Texas

Dear Governor:

Opinion No. O-3766

Re: The authority to give permission
to one to make a reproduction of "Dawn
on the Alamo," a painting now in the
Senate Chamber.

We beg to acknowledge receipt of your letter of July 15, 1941, making
the following inquiry:

"The question as to the custody and control of paintings in the Senate frequently arises, and I am particularly reminded of numerous inquiries and requests which came to the Centennial Commission of Control during its existence.

"I have a request now for permission to make a reproduction of the 'Dawn on the Alamo,' which hangs in the Senate Chamber, and I shall appreciate an opinion from you as to the proper person or persons authorized to give such permission."

Article 665 of the Revised Civil Statutes, 1925, declares: "The State Board of Control shall have charge and control . . . of all public personal property, and is charged with the responsibility to properly care for and protect such property from damage, intrusion or improper usage, . . ."

We are not advised as to the manner of acquisition by the State of this canvas -- that is, whether by donation or by purchase; neither are we advised as to whether the State was nominal donee or purchaser of the painting or whether the apparent title, whether by donation or purchase, was to the Senate.

However these things may be, in any event the painting is public property -- the property of the State -- even though it is destined to use by the Senate.

The Legislature is authorized to create and to recreate or change trustees, fiduciaries or custodians of State property. (Lander v. Victoria County, 131 S.W. 821).

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You are, therefore, respectfully advised it is the opinion of this Department that permission to reproduce the painting "Dawn on the Alamo" now in the Senate Chamber should be obtained from the Board of Control.

We might add of course if the Senate were in session, even the Board of Control would have no authority, nor would it attempt to exercise such authority, to give permission to do anything in this connection that would in anywise interfere with the Senate in its superior rights of enjoyment to the use of the Senate Chamber and its appurtenances.

We need hardly to add that if the painting is copyrighted, the owner of the rights would not be prejudiced by any consent given by the Board.

Trusting that this will be sufficient answer to your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By /s/ Ocie Speer

Ocie Speer
Assistant

APPROVED JULY 22, 1941
/s/ Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

OS-MR:egw

APPROVED
OPINION COMMITTEE
BY B W B.
CHAIRMAN